

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

HAROLD A. McMASTER ET AL.

Group Art Unit:

Serial No. To Be Assigned

Examiner:

File Wrapper Continuation of U.S.S.N. 08/002,090
Filed January 8, 1993

Filed: Concurrently herewith

For: GLASS SHEET BENDING APPARATUS

Attorney Docket No. GLT 1463 R

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on:

October 31, 1994
Date of Deposit

Earl J. LaFontaine
Reg. No. 30,766


Signature

DECLARATION AND POWER OF ATTORNEY
FOURTH SUBSTITUTE REISSUE DECLARATION

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

The undersigned applicants for reissue, Harold A. McMaster, 9902 Sheffield Road, Perrysburg, Ohio 43551; Norman C. Nitschke, 29737 E. River Road, Perrysburg, Ohio 43551; Dexter H. McMaster, 1070 Elm Street, Perrysburg, Ohio 43551; and Ronald A. McMaster, 315 E. Front Street, Perrysburg, Ohio 43551 declare that:

- 1) We are citizens of the United States of America and residents of the State of Ohio;
- 2) We believe ourselves to be the original, first and joint inventors of the invention described and claimed in Letters Patent No. 4,883,527 and in the above-identified reissue application and for which we solicit a reissue patent;
- 3) We do not know and do not believe that said invention was ever used before our invention thereof;

4) We believe said patent to be wholly or partly inoperative or invalid by reason of insufficiency in the claims by claiming less than we had the right to claim in said patent in that:

- a) After the issuance of the '527 patent, and through sales people of Glasstech, Inc., the assignee of the patent, we became aware of a competing machine;
- b) The competitor who manufactured the competing machine was contacted and they forwarded to us at Glasstech U.S. Patent No. 5,009,693, issued to Kenneth Freidel et al on April 23, 1991, and assigned to Muirfield Holdings, L.P. expressing that the competing machine was covered by this patent;
- c) We forwarded the '693 patent to Christopher J. Fildes, the patent attorney who prepared the application for which reissue is here sought and requested his review;
- d) After his review, Mr. Fildes informed us that Glasstech, Inc. was entitled to broader claim coverage because Muirfield Holdings, L.P. had obtained patent protection on the invention disclosed in the specification of the '527 patent;
- e) Mr. Fildes also informed us that he had read the specification of the '527 patent to determine what subject matter would be identified by one skilled in the art reading the specification as supporting such broader claims invented and disclosed by the patentees; and had concluded that all the claims of the '527 patent had included, "apparatus comprising . . . first platen being deformable and including an actuator for deforming said platen from a planar shape to a bent shape; said first platen including quench openings throughout the extent thereof; said

quench openings of the first platen being movable therewith during the deformation of the platen; a second platen having quench openings throughout the extent thereof; said quench openings of the first platen being movable therewith during the deformation of the platen; a second platen having quench openings throughout the extent thereof and opposing the first platen in spaced relationship with the glass sheet therebetween; . . . and quenching gas being supplied to the quench openings of both platens and thereby to both sides of the glass sheet to temper the bent glass sheet between the platens." and that one object recited, "Another object of the invention is to provide an apparatus that has movable quench openings that move with the surfaces of the flat glass sheet to provide equal thermal conditions during tempering and a more uniformly tempered glass sheet." but that he had erred by including in such apparatus "glass bending" in the claims;

f) Mr. Fildes also informed us that he did not fully appreciate that the claims to the invention disclosed in the original patent were more limited than such object and thus were inconsistent with such object; and that he had thus concluded that we had claimed less than we as the patentees had a right to claim;

g) We believe this because we know that the application for which reissue is here sought was originally entitled "Bent Glass Sheet Quench" at the time the application was filed on September 27, 1988 and throughout its pendency until the Notice of Allowance on July 21, 1989, and that one object recited "Another object of the invention is to provide an apparatus that has movable quench openings that move with the surfaces of the flat glass sheet to provide equal

thermal conditions during tempering and a more uniformly tempered glass sheet.";

- h) We also believe that we had claimed less than we as patentees had a right to claim and that Glasstech, Inc. was also entitled to broader claim coverage in that the claims were more limited than the bent glass sheet quench we invented in the apparatus, as disclosed and claimed in the '527 patent;
- i) Such insufficiency arose through error; and
- j) Such insufficiency would be corrected by a claim directed to our quench invention, such as now pending claim 17.

5. We also believe that after the issuance of said '527 patent certain departures from the original patent were made:

- a) On March 9, 1990, in a "MAKE OF RECORD" letter to correct printing errors at" Col. 1, line 57 to change "twostep" to -- two step --; Col. 2, line 14 to change "jointd" to -- jointed--; Col. 3, line 36 to change "includes" to -- includes --; Col. 3, line 56 to change "separte" to -- separate --.
- b) That such changes and amendments arose through error; and that
- c) Such insufficiency arose through error.

6. We also believe said patent to be wholly or partly inoperative or invalid by reason of insufficiency in the claims in that:

- a) After filing reissued application no. 775,418, the parent application to the parent of the present application, we were advised by the Examiner K. Schor, in paper no. 3 on April 14, 1992, that claims 1, 15 and 16 did not describe our invention in such full, clear, concise and

exact terms as to enable any person skilled in the art to make and use the same and/or for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required under 35 U.S.C. subsection 112;

- b) In particular, we were advised by the Examiner that "and quenching gas being supplied" should properly be "means for supplying quench gas to the quench openings" to properly set forth the enabled invention and in response to such advice did, on July 14, 1992, amend claims 1, 15 and 16 by changing "quenching gas being supplied" to -- means for supplying quenching gas --; and
- c) Such insufficiency to claims 1, 15 and 16 arose through error.

7. That the foregoing errors arose without any deceptive intention on our part.

8. That we have read the Substitute Declaration of Christopher J. Fildes attached hereto and ratify its content.

We, the undersigned Applicants for reissue, Harold A. McMaster, Norman C. Nitschke, Dexter H. McMaster and Ronald A. McMaster also hereby state that we have reviewed and understand the contents of the above-identified reissue application, including the claims, and acknowledge the duty to disclose information that is material to the examination of the application under Section 1.56(a) of Title 37 of the Code of Federal Regulations.

The undersigned hereby appoint Ernie L. Brooks, Reg. No. 1 26,260; James A. Kushman, Reg. No. 25,634; and Earl J. LaFontaine, Reg. No. 30,766 to prosecute this reissue application and to transact all business in the Patent and Trademark Office connected therewith.

The undersigned declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be

true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: Oct. 21, 1994

Harold A. McMaster
HAROLD A. McMASTER

Date: 10-26-94

Norman C. Nitschke
NORMAN C. NITSCHKE

Date: 10-26-94

Dexter H. McMaster
DEXTER H. McMASTER

Date: 10-26-94

Ronald A. McMaster
RONALD A. McMASTER